

AMENDED IN ASSEMBLY JUNE 29, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 21, 2005

SENATE BILL

No. 167

Introduced by Senator Speier

(Coauthors: Senators Cox, Ducheny, and Runner)

(Coauthors: Assembly Members Benoit and Richman)

February 8, 2005

An act to amend Section 130070 of, and to add Section 130030 to, the Health and Safety Code, relating to seismic safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 167, as amended, Speier. Seismic and patient safety.

Under existing law, after January 1, 2008, any general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life may only be used for nonacute care hospital purposes. Existing law requires owners of all acute care inpatient hospitals, by January 1, 2030, to either demolish, replace, or change to nonacute care use all hospital buildings not in substantial compliance with the regulations and standards developed by the office or to seismically retrofit all acute care inpatient hospital buildings so that they are in substantial compliance with the regulations and standards developed by the office.

Existing law authorizes the Office of Statewide Health Planning and Development to grant a delay in the 2008 deadline to a hospital that states in its application for an extension why the hospital is unable to comply with the deadline requirement, upon a demonstration by the owner that compliance will result in a loss of health care capacity that

may not be provided by other general acute care hospitals within a reasonable proximity.

This bill would exempt any hospital that is subject to state seismic safety standards for hospitals from the 2008 deadline if the governing body adopts and submits to the State Department of Health Services by July 1, 2006, a resolution that the governing body commits to comply with the January 1, 2030, seismic safety standards by January 1, 2020, if certain conditions are met, and would make violation of these provisions subject to licensure revocation and nonrenewal.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Hospital emergency services, trauma care, and general
- 4 acute care hospital inpatient services are essential to maintain the
- 5 health of every Californian.
- 6 (b) The original seismic safety legislation was enacted in 1973
- 7 to require all new and remodeled hospital buildings to meet
- 8 standards that improve patient safety during and after seismic
- 9 events.
- 10 (c) Legislation enacted in 1994 established 2008 and 2030
- 11 facility standards for all existing hospital buildings that provide
- 12 care to hospital patients.
- 13 (d) More than half of all California hospitals lost money on
- 14 operations from patient revenues in 2004.
- 15 (e) Nearly one-fourth of California hospitals do not meet
- 16 criteria of the California Healthcare Financing Authority and do
- 17 not qualify for loans issued through that state agency.
- 18 (f) Financial pressures on hospitals have reached
- 19 unprecedented levels, led by uncompensated care from treating
- 20 uninsured, Medi-Cal and Medicare patients, unfunded mandates
- 21 such as seismic compliance and nurse-to-patient ratios and rising
- 22 costs of supplies, goods, services, technology, and
- 23 pharmaceutical products.
- 24 (g) Events in the world and natural disasters in the United
- 25 States have created shortages in steel, building products and
- 26 supplies, construction capabilities and the availability of

1 subcontractors, resulting in rapidly escalating costs in hospital
2 construction. These unforeseen events have created new
3 construction cost pressures on hospitals and are threatening the
4 financial viability of seismic retrofit and construction projects,
5 resulting in a loss of access to hospital services for Californians.

6 (h) Many hospitals are unable to meet the January 1, 2008,
7 deadline, including extensions up to 2013, because of inadequate
8 financial resources or other factors beyond the hospitals' control.

9 (i) Assumptions were made in 1994 that the cost of retrofitting
10 hospitals to the 2008 standards would be minor compared to the
11 cost of complying with 2030 standards. Facts, information and
12 knowledge about seismic compliance in recent years have made
13 retrofitting an undesirable or impractical option, forcing most
14 hospitals to bring their buildings up to the 2030 standards or
15 replace them.

16 (j) The original hard construction cost of total compliance was
17 estimated to be \$24 billion, far short of the \$40 billion that
18 actually will be required. Costs will be significantly higher after
19 financing and other expenses are included.

20 (k) The goal of seismic safety can best be met by bringing
21 hospital buildings to the 2030 standards as soon as practicable.

22 (l) The financial squeeze on hospitals, the lack of state funds
23 to assist hospitals, inadequate Medi-Cal payments that fail to
24 cover the cost of services to Medi-Cal beneficiaries and the
25 efficacy of other actions to improve quality and patient safety
26 make it necessary to give hospital options with respect to seismic
27 compliance.

28 (m) State financial support is needed for many hospitals to
29 meet the 2008 deadline.

30 (n) Existing state debt and the structural deficit preclude state
31 financial assistance to hospitals in the foreseeable future.

32 (o) Preservation of retrofitted or new hospital buildings for
33 hospital services will help ensure access to care for California
34 residents in future years.

35 SEC. 2. Section 130030 is added to the Health and Safety
36 Code, to read:

37 130030. (a) Any hospital that is subject to the requirements
38 of this chapter shall be exempt from the January 1, 2008,
39 deadline imposed by Section 130060, if, by July 1, 2006, the
40 governing body of the hospital adopts and submits to the State

1 Department of Health Services a resolution in the following
2 form:

3 The Governing body of _____, on this date, ____, 2006,
4 commits to *either replace or seismically retrofit its general acute*
5 *care hospital building so that these hospital buildings* comply
6 with the January 1, 2030, seismic safety standards required by
7 Section ~~130060~~ 130065 by January 1, 2020.

8 (b) This section shall not restrict or affect any other option or
9 exemption available to hospitals under any other provision of this
10 code.

11 (c) *Upon compliance with subdivision (a), the office shall*
12 *issue a written notice of compliance. The office shall send a*
13 *written notice of violation to hospital owners that fail to comply*
14 *with subdivision (a).*

15 ~~(e)~~

16 (d) (1) The office, in consultation with the Hospital Building
17 Safety Board, shall do the following:

18 (A) Determine the seismic risk of each hospital building
19 subject to this chapter, using a nationally recognized
20 methodology. *In order to determine the seismic risk of each*
21 *building, the office shall utilize specific criteria, including, but*
22 *not limited to, building construction type such as reinforced*
23 *masonry or nonductile concrete frame, site seismicity, proximity*
24 *to active faults, age of the building, and number of stories of the*
25 *building.*

26 (B) Determine, consistent with the purposes of Section
27 130060, the maximum allowable seismic risk for purposes of this
28 section.

29 (2) Any building subject to paragraph (1) that exceeds the
30 maximum allowable seismic risk shall not be eligible for the
31 exemption provided for in subdivision (a).

32 (3) The office shall adopt and issue regulations to implement
33 this subdivision.

34 ~~(d)~~

35 (e) A hospital that adopts and submits a resolution as set forth
36 in subdivision (a), shall submit the complete construction plans
37 for building compliance to the office for its review and approval
38 by January 1, 2015.

39 ~~(e)~~

1 (f) A hospital that has requested an exemption under
2 subdivision (a) and has not submitted a complete *construction*
3 plan to the office for approval by January 1, 2015, as required by
4 subdivision—(e) (d) is in violation of this article and shall be
5 subject to the licensure suspension and nonrenewal provisions of
6 Section 130070.

7 SEC. 3. Section 130070 of the Health and Safety Code is
8 amended to read:

9 130070. The office shall notify the State Department of
10 Health Services of the hospital owners that have received a
11 written notice of violation for failure to comply with Section
12 130030, 130060, or 130065. Unless the hospital places its license
13 in voluntary suspense, the state department shall suspend or
14 refuse to renew the license of a hospital that has received a notice
15 of violation from the office because of its failure to comply with
16 Section 130030, 130060, or 130065. The license shall be
17 reinstated or renewed upon presentation to the state department
18 of a written notice of compliance issued by the office.